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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,657	03/02/2001	Thomas C. Thompson		3470

7590  
Thomas C. Thompson  
92-543 Kokole PL  
Makakilo, HI 96707

EXAMINER
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WENDELL, MARK R

ART UNIT	PAPER NUMBER
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3635

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02/20/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/690,657	<b>Applicant(s)</b> THOMPSON, THOMAS C.	
	<b>Examiner</b> MARK R. WENDELL	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 24-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 24, the examiner notes that the language of the claim is confusing and the applicant is not clearly defining each element of the claim. There is lack of antecedent basis for the term "the circle area." Also, in bullet "e" applicant claims "outside surface of the cylinder" which is confusing because there is a cylinder shaped core and cylinder shaped sides of the bracket. Clarification is necessary for these terms to be interpreted correctly.

Regarding claims 25-29 and 31-32, the applicant is trying to limit the claim with functional limitations and comparisons to other inventions. There is no specific degree as to the values of time, surface areas, etc. rather they are vague comparisons to other methods which renders the claims indefinite.

Regarding claim 34, the terms "generally similar" is vague and indefinite. The term does not clearly define the exact diameter of the cylinder.

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Regarding claim 39, the terms “different types of apparatuses” is vague and indefinite. The language does not specify the apparatuses or limits of the strength to which the bracket can hold.

Regarding claim 34, lack of antecedent basis applies to the term “the drilled-out circle.”

Regarding claim 35, lack of antecedent basis applies to the term “the core.”

Regarding claim 36, lack of antecedent basis applies to the terms “the drilled circle” and “core.”

Regarding claims 37 and 38, lack of antecedent basis applies to the term “the adhesive.”

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Birs (US 5383315). Regarding claim 33, Birs illustrates in Figure 5 a bracket comprising:

- Sides that are shaped like a cylinder (11);
- One end of the cylinder is open (end opposite 13);
- The other end of the cylinder is **generally** closed and **generally** flat (13), the examiner notes that the term "generally" renders the terms "closed" and "flat"

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ambiguous. The flat, washer portion of the item in Figure 5 is a closes circle with a circular opening in the top to receive a screw, see Figure 2. Thusly, the item is considered "generally closed";

- The opposite side of the closed end contains an attaching web (objects can be inserted into the hole, see Figure 2).

Regarding claim 34, Birs illustrates the cylinder (11) having a diameter. The rest of the language within the claim is vague and indefinite as to the relative size of the diameter. The examiner notes that the hole in which 11 fits into was drilled as per the specification, thus the diameter has to be generally similar. Also, language "fits into... bit" is intended use and not given patentable weight (Ex parte Masham, 2 USPQ 2d 1647 (1987)).

Regarding claim 35, Birs illustrates the cylinder having an opening, as described above. Also, language "to fit... bit" is intended use and not given patentable weight (Ex parte Masham, 2 USPQ 2d 1647 (1987)).

Regarding claims 36 and 37, Birs teaches in column 3 the bracket (11) being attached via an adhesive placed on flange (13).

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Regarding claim 38, Bir's illustrates a flange portion (13) attached to the cylinder walls (11) thus providing a break and more surface area for an adhesive to be placed thus better securing item 11 to a surface.

Regarding claim 39, it is described above that the item in Figure 5 has an attaching web. The language of the claim "for temporary... surface" is intended use and given no patentable weight as per *Ex parte Masham*.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bir's (US 5383315). Regarding claim 24, Bir's illustrates in Figures 1-5 and discloses within the specification a method of attaching a bracket to a solid, generally flat surface comprising:

- Drilling into a surface using a standard coring-bit (See column 2, lines 40-45, column 4, lines 15-20 and lines 25-35). The examiner notes the reference teaches drilling into a surface but does not specify the exact bit; however the

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applicant has stated the bit is "standard" and thus commonly known and used in the art;

- Removing the coring-bit, leaving a drilled-out circle and a cylinder-shaped core (The examiner notes that when a drill is inserted to drill a hole it is common practice to pull the drill back out);
- Applying adhesive into the circle area and on top of the core (See column 3, lines 49-51 and lines 65-68). The examiner notes that the reference does not distinctly disclose where the adhesive is placed within lines 49-51, the reference generally states that various methods can be used to attach item 11 to the surface including gluing. The reference goes on to states that the glue can be placed on the outer ring (13) of item 11 which, under compression when placed into contact with the surface, would allow the adhesive glue to flow into the drilled hole and also come into contact with the area surrounding the drill hole;
- Applying a bracket (Figure 5) having a generally open-can shape with cylinder-shaped sides (11) that slide into the circle, and a generally flat surface (13) that rests on top of the core;
- Forming a strong bond with the adhesive (See column 3, lines 49-51 and lines 65-68) between the inside and outside surface of the cylinder and the outside surface of the core and the inside surface of the drilled circle, and between the top of the core and the flat surface of the bracket.

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Regarding claims 25-29 and 31-32, the examiner notes that the limitations are functional in nature and the invention as described above is capable of performing such functions as using less time, removing less material, and using less adhesive than other methods.

Regarding claim 30, the examiner notes that the bracket 11 is held in place by friction and normal forces applied via the snug fit walls that are formed when the underlying structure was drilled.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK R. WENDELL whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

/M. R. W./  
Examiner, Art Unit 3635  
February 11, 2009